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## Appeal Decision

Site visit made on 23 January 2025

by **F Rafiq BSc (Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 March 2025

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**Appeal Ref: APP/P5870/W/24/3345648**

**23 High Street, Carshalton SM5 3AX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant consent, agreement or approval to details required by a condition of an approval.
- The appeal is made by Dr Adam Islam (ASI Asset Management Limited) against the decision of the Council of the London Borough of Sutton.
- The application Ref CLC2024/00016 sought approval of details pursuant to conditions No's 1 and 2 of an approval Ref APP/P5870/C/21/3289021, granted on 7 September 2023.
- The application was refused by notice dated 20 March 2024.
- The development proposed is an application to clear condition 1 (Scheme of works) and 2 (Cycle storage) of appeal reference: APP/P5870/C/21/3289021.
- The details for which approval is sought are: The development hereby permitted shall be demolished to ground level and all materials resulting from the demolition shall be removed within 12 months of the date of failure to meet any one of the requirements set out in i) to iv) below:
  - i) Within 6 months of the date of this decision a scheme of works to include full details of:
    - (a) all proposed changes and enhancements set out in Table 1 and Table 2 at Appendix 11 of the appellant's Hearing Statement and the proposed plans at Appendix 4 of the appellant's Final Comments;
    - (b) proposed hard and soft landscaping of the external amenity space;
    - (c) proposed repointing of the west elevation;
    - (d) proposed noise insulation/reduction measures; and
    - (e) the hours between which all works will be undertakenshall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation. The scheme of works shall include detailed profile and section drawings and samples of shopfront pilasters and fascias, window cills and heads, and bargeboards. It shall also include details of how noise levels of 35 dBLAeq,16 hour in living rooms and bedrooms during the daytime (0700 to 2300) and 30 dBLAeq,8 hour and 45 dBLAmax during the night time (measured with F time-weighting and between 2300 and 0700) in bedrooms in accordance with BS8233:2014 shall not be exceeded.
  - ii) If within 9 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
  - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
  - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.
  - v) Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be adhered to, and the hard and soft landscaping of the external amenity space shall be maintained and that area shall only be used in association with the residential flats at the site and not for any commercial purposes.
  - vi) In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

## **Decision**

1. The appeal is allowed and the details submitted pursuant to condition No 1 attached to planning permission Ref APP/P5870/C/21/328902 granted on 7 September 2023 in accordance with the application dated 7 February 2024 and the plans/documents: GA 200, GA 201, GA 202, GA 203, GA 205, GA 206, GA 207, GA 208, GA 209, GA 210, GA 211, GA 212, GA 213, GA 214, GA 215, GA 216, Remedial Works Schedule Rev 01 and Materials Samples and Details and Appendices (May 2024), Heritage Commentary accompanying External Materials Schedule 3 June 2024, Landscape Plan, Demolition Plan, Repointing Methodology (May 2024), Façade Sound Insulation Assessment (14 May 2024) and Programme Schedule submitted with it are approved.

## **Preliminary Matters**

2. The appeal relates to a refusal by the Council to discharge a condition in connection to planning permission granted on appeal ref APP/P5870/C/21/3289021. Although the application to discharge the conditions was made in relation to conditions 1 and 2, the latter condition 2 does not require the submission of details for approval. As such, the Council proceeded to make a determination in relation to condition 1 and I have proceeded to determine this appeal accordingly.
3. The Council has raised concerns that the appellant failed to comply with the wording of the condition in such a manner that it triggers the requirement set out in the condition to demolish the development to ground level and for materials arising from the development to be removed. However, the appellant made a submission within the 6-month time period set out in the condition, with an appeal following the Council's refusal within the period identified within the condition. As such, the appeal falls to be determined as set out in part iii) of the condition.
4. The appellant has submitted further details with the appeal. This includes details of elevations, materials, and a programme schedule. As the revised submission seeks to provide further details to discharge a planning condition, it would not fundamentally alter the nature of the development which has previously been considered. The Council has had the opportunity to comment on the materials submitted with the appeal, and it would not prejudice anyone's case in the appeal for me to consider these. Consequently, having regard to the Wheatcroft Principles, I will proceed to determine the appeal based on the further submissions.

## **Main Issue**

5. The main issue is whether the details submitted are acceptable having regard to the character and appearance of the Carshalton Village Conservation Area (CA).

## **Reasons**

6. The appeal property comprises of a three-storey building which is set back from the High Street, behind a public car park. It is situated in the retail centre which contains a range of uses and buildings of differing designs and styles. The character of the area is typified by the generally uniform scale of buildings, the presence of historic buildings with traditional forms, and the busy nature of this area of Carshalton owing to the varied uses.

7. Condition 1i(a) requires details of changes and enhancements to various parts of the appeal building and site to be provided. This includes the timber finials, the soffits, the bargeboards and weatherboards to the dormer windows, the window heads and cills, door heads, windows and the different elements of the shop frontage. Other areas relate to gutters, downpipes and brackets, the extractor vent, boiler flue, doors to the bin stores and rooflights. In all these cases, whilst the Council raised concerns on the lack of details provided, including the absence of dimensions, material or finish type, and lack of photos or detailed drawings, additional plans and details which include technical specification documents and photographs of material samples have been provided with this appeal. In relation to the shopfront elements, windows, window cills and heads, and the dormer windows, detailed elevation and section plans have been provided. The traditional appearance of these details would provide for an attractive locally distinctive building that would contribute positively to the character and appearance of the CA.
8. Other details submitted relate to replacement mortar and roof detailing. Drawings and material details of these have been provided, including details of the area where the works are proposed. By replacing blockwork with suitable bricks that would match those on the appeal building and the provision of suitable types and finishes on the roofing material, these changes would assimilate with the appearance of the remainder of the property.
9. Details of the front pavement edge has been provided which having regard to the surfacing material on nearby footways, would be acceptable. The doors to the bin stores would be solid oak doors, and the details provided would ensure that these elements are visually appropriate. The type and colour of the works to the expansion joints has been provided which would be acceptable given the brick walling that it would be seen against, as well as the proposed location where this work would be undertaken.
10. Condition 1i(b) relates to the proposed hard and soft landscaping of the external amenity space. The external area of the appeal site is limited and was covered with a timber structure roof and corrugated roofing material at the time of my visit. The Council consider the submitted details of the low maintenance amenity space to be acceptable and given its limited size and its functional nature, I have no reason to disagree. A further demolition plan has been submitted and this clarifies the removal of the current structure that occupies part of the amenity space and the access arrangements to this space have also been clarified.
11. Details of the proposed re-pointing of the western elevation is required by condition 1i(c) but this does not require replacement brickwork on this elevation. The appellant has submitted a plan which identifies part of this elevation where mortar is to be removed and replaced, as well as further details in the form of the Repointing Methodology (May 2024) which also contains a brick sample panel photo. From my site observations, it is the lower section on the main three storey western elevation that currently has a distinctly different tone to the rest of this elevation. The re-pointing of this part of the wall would in the manner set out, provide a mortar finish that closely matches the remaining part of the elevation. and which would further weather naturally over time.
12. A Façade Sound Insulation Assessment (14 May 2024) has been provided in relation to condition 1i(d), which requires noise insulation/reduction measures. The

Assessment considers the external wall and roof constructions, and the proposed windows, setting out that internal noise levels would be within the assessment criteria that draw from the noise levels set out within condition 1i). As such, these details adequately demonstrate that appropriate internal noise levels can be achieved.

13. The hours of work have been stated to be between 8am-5pm Monday to Friday and 8am to 1pm on Saturday. Given the presence of residential occupiers nearby, I consider these working hours to be acceptable. The scheme of works provides a timetable for the implementation of the works totalling a period of 84 weeks from the date of this appeal decision. Whilst this represents a period exceeding 1.5 years, the first twenty-week period is to provide notice to existing residential tenants with other works being undertaken in a sequential manner. I consider this to be reasonable and the programme provides sufficient detail of the works to be implemented to satisfy this part of condition 1i.
14. I conclude therefore that the details submitted are acceptable having regard to the character and appearance of the CA. Although the decision notice does not reference any policies, I have been provided with details of Policies 28 and 30 of the Sutton Local Plan 2016-2031. The proposal would comply with these policies, which seek, amongst other matters, development that is designed to the highest standard and which conserves and enhances the borough's historic environment. It would also be compliant with Section 16 of the National Planning Policy Framework, which requires heritage assets to be conserved in a manner appropriate to their significance.

#### **Other Matter**

15. Reference has been made to an amendment application that has been submitted to the Council. This does not however have a bearing on the appeal before me which I have determined on its own merits.

#### **Conclusion**

16. For the reasons given above the appeal should be allowed.

*F Rafiq*

INSPECTOR